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In re Application of :  
GRABHER, Werner :  
U.S. Application No.: 10/552,661 :  
PCT No.: PCT/EP04/02596 :  
Int. Filing Date: 12 March 2004 :  
Priority Date: 18 March 2003 :  
Docket No.: 3224-157 :  
For: CAN COMPRISING A FOIL SEAL :

## DECISION

This is a decision on the papers filed 14 June 2006.

### BACKGROUND

On 11 October 2005, applicant submitted papers to enter the national stage of PCT/EP04/02596. Applicant purportedly included a petition to revive, however, the petition is not located in the file.

On 07 June 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) because applicant failed to provide the full U.S. Basic National Fee by 30 months pursuant to 37 CFR 1.495(b)(2).

On 14 June 2006, applicant filed papers to show that a petition to revive was originally filed 11 October 2005 and not acted upon.

### DISCUSSION

#### **Petition Originally Filed 11 October 2005**

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped postcard receipt for the documents submitted 11 October 2005. The attorney docket number, title and inventor were listed on the postcard receipt. The postcard receipt records that a "Petition for Revival of Unintentionally Aband Appn" was received in the USPTO. The

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postcard receipt is stamped "JC04 Rec'd PCT/PTO 11 OCT 2005" across its face. Applicant included a copy of the petition with the subject petition.

As such, applicant has provided *prima facie* evidence that a petition to revive under 37 CFR 1.137(b) was originally received by the USPTO on 11 October 2005.

Therefore, the Notification of Abandonment (Form PCT/DO/EO/909) mailed 07 June 2006 is **VACATED**.

**Petition to Revive Under 37 CFR 1.137(b)**

Applicant's petition to revive under 37 CFR 1.137(b) filed with the national stage papers on 11 October 2005 is hereby **GRANTED** as follows:

The basic national fee, search fee, examination fee, and the petition fee were paid on 11 October 2005. Applicant made the required statement pursuant to 37 CFR 1.137(b)(3). A terminal disclaimer is not required. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

A signed oath or declaration was not included with any of the papers submitted.

This application is being forwarded to the United States Designated/Elected Office for further processing including mailing a Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee are required.



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